

TELEGRAPHIC SUMMARY.

LAST NIGHT'S DISPATCHES TO THE NEWS.

Condensed in Short Paragraphs—
M. de Lesseps in Washington.
Meeting in San Francisco.

TORREY, Kan., March 9.—The Insane Asylum at Ossawatimie, containing 200 inmates, was burned last night. All the inmates were rescued. Loss \$40,000.

The Readjusters debt bill of Virginia is to be submitted to a vote of the people in November next.

Regular through trains on the Cincinnati Southern Railroad to pass over the entire length of the road—North and South—last Monday.

In the English House of Commons Tuesday night, a vote of five million pounds on account of the civil service reform was granted.

Near Cairo, Illinois, yesterday, a negro man fatally shot his wife (a white woman) and then killed himself.

In San Francisco this morning a meeting will be held by the citizens to denounce the action of the agitators, who have brought scandal and dishonor on American civilization. The manifesto is underwritten by the sent the wealth and business interests of the city.

M. de Lesseps was before the House Inter-oceanic Committee again yesterday, showing the great advantages of the Panama route, and expressed great satisfaction at the President's message on the subject. He has telegraphed his son in Paris, that the safety of the project is now assured. Secretary Evarts says it may be assumed that no negotiations will be had between private projectors and the Government, but without daily regarding the treaty for the ultimate advantage of all nations.

Supreme Court Decisions.
Digested for the News by W. M. Bushee, Attorney at Law.

SMITH, C. J.:
Roberts v. Moore.

Cole v. Moore.

A mutual agreement was entered into by the parties to this suit, to build and keep in repair, each a separate portion of a fence which separated and protected the land of the defendant from the plaintiff's field and injured his crops. Action was brought to recover damages therefor. Applying the rule laid down in *Boyle vs. Kader*, 1 R. 607, in *Ford vs. A. & N. C. R. R. Co.*, 3 Jones, 225, and in the *Case of the N. C. R. R. Co.*, 11 to the facts of the present case, the jury should have been instructed to give the plaintiff five damages such as would be sustained by the defective fence in order, and also damages for the injury done to plaintiff's crop, before he could have prevented it.

ASHB, J.
Hyatt v. Davidson.

Wagoner v. Davidson.

Motion was made before Superior Court Clerk of Davidson to issue execution upon a judgment rendered by plaintiff against defendant at Spring term, 1878. Clerk granted motion and issued execution to sheriff of Forsyth, who levied upon a tract of land, the property of defendant, and was proceeding to sell when defendant obtained a restraining order from Judge Schenck. It was agreed between the parties that the application for restraining order should be treated as a motion to vacate order under C. C. P. sec. 132.

When sheriff read notice to defendant, he informed the sheriff that he had a discharge in bankruptcy, dated 9th October, 1878. Sheriff told him that he would have to go to Lexington, or else write to plaintiff. Sheriff promised that he would write, both thinking that the discharge would be a bar to the proceedings, and that he had written, and gave himself no concern about the matter. Defendant's motion was in the hands of the sheriff. This was gross neglect. At January term, 1880, his Honor adjudged that the order was not made and serious take or execute neglect of defendant.

There is no error. Affirmed.

Stas v. Ireddell.

Moore, et al. v. Ireddell.

Indictment for an affray in the usual form. Motion in arrest of judgment because indictment did not charge that the weapon used was a dangerous one. Damages done or that the affray occurred more than six months before the finding of the bill.

In framing an indictment for such an offense it is not necessary to aver that the offense was committed more than six months before finding the bill and that to justice required. This is a matter of defense, like the statute of limitations. In this case there is no averment of the use of a deadly weapon, and the defendant is found guilty of only an affray, and is not made to appear that the bill was found within six months and that the offense was committed at the same time, the Superior Court has jurisdiction.

Judgment affirmed.

In controversies concerning the right of property in real estate, the courts will not interfere by way of injunction or the appointment of a receiver, with the free use and enjoyment of the party in possession, unless the party claiming the right will lose the rents and profits to which he will be entitled in case he establishes his claim. It is to the public interest that a better title in the defendant should be developed, and this was a proper case in which the injunction should have been dissolved and a receiver appointed.

Judgment affirmed.

J. L. Ry v. Yancy.

J. W. Gardner v. Yancy.

Estoppel. Action of ejectment. Plaintiff claiming under the same grantor as estopped from denying his title. The defendant is estopped, therefore. But it is competent for parties so claiming to show a better title in themselves or in a third person, with whom they connect themselves.

It was error in the court below to refuse to allow defendants to show such title. *Reversed.*

DILLARD, J.
Wittkowsky & Rintels v. Mecklenburg.

S. W. Reid.

The defendant was indebted to the plaintiff in two small sums by account and by two loans, both dated the same day and each for \$275, the first due thirty days from date, the other at forty-five days. Action was brought in January on the forty-five days note which was credited by \$125 paid on Jan. 27, 1876. The defense was that at the time of the credit the note was not due and that the defendant had paid plaintiff \$250 and directed him to the payment of the account and the balance to be credited on thirty days note. The defendant did not do this, but had credited the sum paid in equal parts on the two notes thus keeping on foot four causes of action against the defendant,

within a justness cognizance. Defendant requested his Honor to instruct the jury that if they believed there had been a previous agreement with plaintiff as to the manner in which the payment should be applied, and that the money was paid the Book-keeper in consequence of the then existing agreement, that he had the right on his return in the afternoon, to have the application made according to the arrangement with plaintiff, and then the defendant's motion was granted.

The refusal of his Honor to instruct the jury deprived the defendant of all consideration by the jury of so much of the evidence as related to the agreement with plaintiff and the conversation regard thereto, and therein just ground existed for complaint by the defendant.

Error. Judgment reversed. *Verdict de novo.*

F. W. KERCHNER v. New Hanover.

MARCUS A. BAKER.

Appeal from judgment of the Superior Court refusing motion of defendant to set aside the verdict.

Every person against whom a suit is brought ought to come into court and be heard on his merits, and not to be excluded from the trial, as to look after and follow up his defense, if he fails in this it is negligence and concludes him in any judgment entered against him; unless, of course, as allowed by sec. 153, C. C. P., to be relieved by facts sufficient in law to excuse his neglect. The burden of the proof is on the defendant, and he must show facts not merely sufficient, but so clearly sufficient in law to excuse the neglect, as to call for the exercise of the discretion of the Judge and to make the refusal to vacate appear to be an abuse of his discretion.

Slade vs. Rollins, 26 N. C. 271 and Bank of North Carolina, N. C. 133.

The facts of this case fail to show any abuse of his Honor's discretion in refusing to vacate the judgment on the defendant's motion. The judgment is affirmed, and this will be certified.

Atlantic, Tennessee & Ohio Railroad Company vs. Elam F. Morrison et al. Mecklenburg.

Action on bond of defendant as Treasurer of Plaintiff corporation to recover alleged to have been received and not accounted for by him. Defendants admit the appointment and acting in position of Treasurer of said corporation and the execution of the bond declared in the complaint, and deny the receipt of the money and rely specially as a bar, on a settlement had with a finance committee of the company and also on account and settlement had with the Receiver.

On the trial the defendants insisted on an issue being submitted to the jury on a question of a breach of the bond.

When a person admits himself to be an account party, it is usual to order an account, but if the liability to account is shown as by release or otherwise, no order of reference or trial by jury can be had until the alleged bar is passed upon.

When receipts are offered in evidence such as not to reasonably warrant a finding of the fact under investigation, his Honor should not have allowed the jury to pass on the issue at all, but dismissed execution to sheriff of Forsyth, who levied upon a tract of land, the property of defendant, and was proceeding to sell when defendant obtained a restraining order from Judge Schenck. It was agreed between the parties that the application for restraining order should be treated as a motion to vacate order under C. C. P. sec. 132.

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NEW YORK LETTER.

THE POLITICAL SITUATION AT THE NATIONAL METROPOLIS.

Tammany and Anti-Tammany—The Grantees and Anti-Grantees—Other Matters of Interest.

Correspondence of the News.

NEW YORK, March 8.—Our factions here are preparing for strife. Tammany and anti-Tammany, Grantees and anti-Grantees are counting their numbers, and searching in every direction for converts and pawns. Combining present prospects with the result at the last election, there seems to be every probability that the good old Democratic party, purged from the arrogant connection of Tammany, and swelled from the now broken ranks of Republicanism, will win the day. Tammany, once the pride of the Democracy, now sits in the gloom, and scowls upon the nobler without. Its days seem numbered, and unless it can find a new life, it will be crushed by the rising tide of the Democratic party, interlarded with the full, the dampness of the tomb will moulder its bones.

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sure along on a level with the five-story houses on either side. The staircase leading upward to the station seems almost endless, and its last step is reached, the back of the neck is simply chilled. De Lesseps was filled with amazement on beholding these truly American structures, and declared them to be the most magnificent engineering which he had ever witnessed. They are, in fact, so many giant iron bridges, eight miles in length, and crossing the great gorges and valleys. No serious accident has yet occurred upon them, and the only place where one may be anticipated is where the Ninth Avenue bridge crosses the East River. The great eighth, colored red, for no houses protect it from the terrible gusts that beat upon it, render it apparently very dangerous. The bridge is a masterpiece of engineering, and the care on the part of the engineers will prevent any trouble. At all events, the wind blows with fearful force against the aerial car, and the trains seem to rock beneath its power. There is something so delightfully novel about this elevated traveling, where the New Yorkers are so used to the street cars, that it is almost impossible to get used to it. Instead of the usual old street cars—cheerless, dirty, cold, jolting over uneven tracks, and halting at every corner—these are pre-arranged, comfortable, airy, and cars, running aloft in the air, and whirling them from station to station with such speed and regularity, that it is almost impossible to get used to it. The cars are, in fact, so many giant iron bridges, eight miles in length, and crossing the great gorges and valleys. No serious accident has yet occurred upon them, and the only place where one may be anticipated is where the Ninth Avenue bridge crosses the East River. 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